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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

In re J.L., a Person Coming
Under the Juvenile Court Law.

2d Juv. No. B289405
(Super. Ct. No. 18JV-00082)
(San Luis Obispo County)

THE PEOPLE,

Plaintiff and Respondent,

v.

J.L.,

Defendant and Appellant.

J.L. challenges the electronics search condition in the juvenile court's dispositional order. (Welf. & Inst. Code, §§ 602, subd. (a), 800, subd. (a).) After she admitted an allegation that she received a stolen motor vehicle (Pen. Code, § 496d, subd. (a)), the court ordered J.L. placed at home on probation, subject to various terms and conditions. J.L. contends the electronics search condition included in the order: (1) bears no relationship to her crime, and (2) is unconstitutionally overbroad. We affirm.

FACTUAL AND PROCEDURAL HISTORY

Early one morning, L.D. awoke to discover that her daughter's car was missing from their Arroyo Grande home. Her other daughter, J.L., was also gone. L.D. logged into her social media accounts and discovered that J.L., then 15 years old, had taken the car and driven to Bakersfield. J.L. posted "stories" to her Snapchat account "throughout the night," along "the entire way there."

L.D. discovered J.L.'s location via Snapchat. She drove to Bakersfield and found her daughter's stolen car. J.L. was inside. Police arrested J.L. and booked her into juvenile hall.

J.L. told police that she was "Xaned out" and did not remember anything from the previous evening. She said she did not know how to drive and did not know how she got to Bakersfield. She admitted she "messed up" and "shouldn't have done what [she] did."

L.D. told police that J.L. had been "out of control" during the year prior to her arrest. She threatened to harm herself and refused medication to help stabilize her mental health. J.L. admitted she occasionally drank alcohol. She said she smoked "a lot" of marijuana and took Xanax about three times each week to help her "forget" about life. She was once suspended from school when officials found her under the influence and in possession of Xanax.

At the dispositional hearing, the prosecutor urged the juvenile court to impose an electronics search condition as a term of probation. The search condition would require J.L. to submit any electronic device she owns, possesses, or controls to law enforcement for a search at any time. J.L. would also be required to provide law enforcement with the passwords necessary to

access text messages, voicemail, call logs, photographs, and social media accounts. The rehabilitative and supervisory concerns purportedly addressed by the search condition were drug and alcohol use and sales.

J.L. objected to the electronics search condition. She argued there was no nexus between her crime and the use of social media, and no evidence that she used social media to facilitate drug sales or purchases. In her view, the search condition was overbroad and unnecessarily intruded on her right to privacy.

The prosecutor countered that J.L. had a history of drug use. A review of her messages was appropriate to help determine if she had procured drugs and to help deter future criminality. The juvenile court agreed, and imposed the electronics search condition.

DISCUSSION

Relationship to crime

J.L. contends the electronics search condition in the juvenile court's dispositional order is invalid because it bears no relationship to her receipt of a stolen car. We disagree.

“Welfare and Institutions Code section 730, subdivision (b), empowers the juvenile court to ‘impose and require any and all reasonable conditions that it may determine fitting and proper to the end that justice may be done and the reformation and rehabilitation of the ward enhanced.’” (*In re Erica R.* (2015) 240 Cal.App.4th 907, 911 (*Erica R.*)) The court enjoys broad discretion when fashioning these conditions. (*In re J.B.* (2015) 242 Cal.App.4th 749, 753 (*J.B.*)) It may impose a condition that would be “unconstitutional or otherwise improper so long as it is tailored to specifically meet the needs of the

juvenile.’ [Citation.]” (*Id.* at pp. 753-754.) “This is because juveniles are deemed to be ‘more in need of guidance and supervision than adults, and because a minor’s constitutional rights are more circumscribed.’ [Citation.]” (*In re Victor L.* (2010) 182 Cal.App.4th 902, 910.)

To determine whether the juvenile court abused its discretion when it imposed the electronics search condition here, we apply the three-prong test set forth in *People v. Lent* (1975) 15 Cal.3d 481 (*Lent*), superseded by statute on another ground as stated in *People v. Moran* (2016) 1 Cal.5th 398, 403, footnote 6 (*Moran*). (*Erica R., supra*, 240 Cal.App.4th at p. 912.) Pursuant to *Lent*, we will find that the court abused its discretion if J.L. shows that the challenged condition: “(1) has no relationship to the crime of which [she] was convicted, (2) relates to conduct [that] is not in itself criminal, and (3) requires or forbids conduct [that] is not reasonably related to future criminality.’ [Citation.]” (*Lent*, at p. 486.) “This test is conjunctive—all three prongs must be satisfied before [we] will invalidate a probation term.” (*People v. Olguin* (2008) 45 Cal.4th 375, 379 (*Olguin*).)

J.L. fails to satisfy the first *Lent* prong.¹ After she took her sister’s car, J.L. posted stories to Snapchat while committing her crime. Where, as here, a minor uses social media to promote their crime, a probation search condition that permits law enforcement to access the minor’s electronic devices and messaging applications is reasonably related to the minor’s crime. (See *People v. Ebertowski* (2014) 228 Cal.App.4th 1170, 1173, 1176-1177; see also *People v. Appleton* (2016) 245 Cal.App.4th 717, 724 [electronics search condition failed to

¹ We reject the Attorney General’s concession that the electronics search term is not related to J.L.’s crime.

satisfy first *Lent* prong where defendant met victim using smartphone application].)

J.L. also fails to satisfy the third *Lent* prong. The electronics search condition here is reasonably directed at curbing future criminality because knowing that a probation officer can access her electronic devices and accounts will help J.L. to avoid any temptation to commit crimes to “show off” on Snapchat or other electronic media. (Cf. *Moran, supra*, 1 Cal.5th at p. 404 [search condition that helps defendant “avoid any temptation of repeating . . . socially undesirable behavior” does not satisfy third *Lent* prong].) The search condition will also help the probation officer to supervise J.L. more effectively by ensuring that any surreptitious electronic documentation of her crimes comes to light. A condition “that enables a probation officer to supervise [their] charges [more] effectively is . . . ‘reasonably related to future criminality.’ [Citations.]” (*Olguin, supra*, 45 Cal.4th at pp. 380-381.)

This case is unlike *J.B., supra*, 242 Cal.App.4th 749, and *Erica R., supra*, 240 Cal.App.4th 907, on which J.L. relies. In each of those cases, as here, the juvenile court imposed an electronics search condition as one of the minor’s probation terms. (*J.B.*, at pp. 752-753; *Erica R.*, at p. 910.) But unlike the situation here, there was no evidence that either of those minors used an electronic device to facilitate their crime. (*J.B.*, at p. 752; *Erica R.*, at p. 910.) There was thus no connection between the search conditions imposed and the minors’ past or future criminality. (*J.B.*, at pp. 754, 756; *Erica R.*, at pp. 912-913.) Here, J.L.’s use of Snapchat while committing her crime provides the requisite nexus between electronic devices and her past and future criminality. (See *Erica R.*, at pp. 914-915.) The juvenile

court thus did not abuse its discretion when it imposed the electronics search condition as a term of probation.

Unconstitutional overbreadth

J.L. contends her electronics search condition is unconstitutionally overbroad because it is unrelated to the crime she committed and cannot be justified by her admitted drug use. We again disagree.

“A probation condition that imposes limitations on a [minor’s] constitutional rights must closely tailor those limitations to the purpose of the condition to avoid being invalidated as unconstitutionally overbroad.” (*In re Sheena K.* (2007) 40 Cal.4th 875, 890.) “A probation condition is unconstitutionally overbroad if it imposes limitations on the probationer’s constitutional rights and is not narrowly tailored and reasonably related to the compelling state interest in reformation and rehabilitation.” (*In re M.F.* (2017) 7 Cal.App.5th 489, 493 (*M.F.*)). “The essential question . . . is the closeness of the fit between the legitimate purpose of the [condition] and the burden it imposes on the [minor’s] constitutional rights—bearing in mind, of course, that perfection in such matters is impossible, and that practical necessity will justify some infringement.” (*In re E.O.* (2010) 188 Cal.App.4th 1149, 1153.) We independently review whether the challenged probation condition here is unconstitutionally overbroad. (*M.F.*, at p. 495.)

It is not. J.L. has constitutionally protected privacy and free speech interests in the information stored on her electronic devices. (*In re Malik J.* (2015) 240 Cal.App.4th 896, 902 (*Malik J.*)). But the state has a compelling interest in reforming and rehabilitating J.L. (*M.F.*, *supra*, 7 Cal.App.5th at p. 493.) The electronics search condition imposed here is

reasonably related to the state's interest because J.L. documented her crime on social media while admittedly under the influence of Xanax. (*People v. Nachbar* (2016) 3 Cal.App.5th 1122, 1130 [electronics search condition reasonably related to state interest where defendant communicated with 15-year-old rape victim via text messages and social media], review granted Dec. 14, 2016, S238210; *M.F.*, at p. 495 [where minor used Internet to gather information about guns, condition restricting unsupervised Internet access reasonably related to state interest]; *People v. Harrison* (2005) 134 Cal.App.4th 637, 647 [where defendant used Internet to solicit sex with a minor, prohibition on Internet access reasonably related to state interest].) It is narrowly tailored because it restricts law enforcement access to applications reasonably likely to reveal whether J.L. is committing crimes or using drugs: text messages, voicemail, call logs, photographs, and social media. (*In re Juan R.* (2018) 22 Cal.App.5th 1083, 1094 [electronics search condition narrowly tailored where it was restricted to applications “reasonably likely to yield evidence of continued contact with coparticipants or gang members, drug use, or other criminal activity”], review granted July 25, 2018, S249256; cf. *In re P.O.* (2016) 246 Cal.App.4th 288, 298 [search condition not narrowly tailored where it permitted unfettered access to minor's electronic devices and data].)

J.L.'s reliance on *J.B.*, *supra*, 242 Cal.App.4th 749, and *Malik J.*, *supra*, 240 Cal.App.4th 896, is misplaced. In *J.B.*, at pages 756-757, the probation condition requiring the minor to submit his electronic devices for search was unconstitutionally overbroad because there was no connection between his crime and the use of electronic devices. Here, in contrast, J.L.

documented her crime and drug use on Snapchat. In *Malik J.*, at page 902, the condition requiring the minor to provide law enforcement with his social media passwords was not narrowly tailored to determining whether any electronic device he possessed had been stolen. The electronics search condition here, in contrast, is narrowly tailored to discourage J.L. from broadcasting socially undesirable behaviors. It does not unduly infringe on her constitutional rights.

DISPOSITION

The order is affirmed.

NOT TO BE PUBLISHED.

TANGEMAN, J.

We concur:

GILBERT, P. J.

YEGAN, J.

Michael L. Duffy, Judge

Superior Court County of San Luis Obispo

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